

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

MOZZY CLARK,

Plaintiff,

v.

STATE OF WASHINGTON, DEPARTMENT OF
CORRECTIONS; LT. DENNIS SIMONS; SGT.
CARRIE ANN WILLIAMS A/KA/ CARRIE
ANN GUAJARDO; HEIDI WHITEMORE;
OFFICER THERESA AYOTTE; OFFICER
GREGORY BROOKS; and DOES 1-10,

Defendants.

Case No: 3:24-cv-06058-TMC

[CORRECTED]
SECOND AMENDED COMPLAINT
FOR DAMAGES
(JURY TRIAL DEMANDED)

SECOND AMENDED COMPLAINT
Case No: 3:24-cv-06058-TMC

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INTRODUCTION

1
2 1. Plaintiff Mozzy Clark was repeatedly sexually harassed and assaulted by a biological
3 male, with whom she was forced to share a cell, at the Washington Corrections Center for
4 Women.

5 2. Prison officials were well aware that allowing biological males into a female prison
6 creates a substantially increased risk of harm to female prisoners, including intimidation,
7 violence, and sexual assault.

8 3. Prison officials also knew that allowing biological males into a female prison violates
9 the basic human rights of women, including the right to be safe from the risk of increased harm,
10 and the right to privacy and dignity (by not being compelled to sleep, shower, or otherwise be
11 naked in the presence of incarcerated men, or exposed to the naked bodies of incarcerated men),
12 and the right to not be compelled, coerced, or pressured into using speech that reflects a belief
13 that conflicts with biological reality.
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15 4. Despite this knowledge, Defendants forced Ms. Clark to share a cell with a 6-foot, 4
16 inch biological male who was known to be a violent, convicted sexual predator.

17 5. During the time Ms. Clark was locked in a cage with this man, he continually talked
18 to her in a sexually explicit manner, touched his genitals luridly in front of her, threatened Plaintiff
19 with sexual violence, and when prison officials did nothing about this behavior, went on to
20 sexually assault her multiple times.

21 6. When Ms. Clark complained to prison officials, her objections were laughed off and
22 dismissed by Defendants. They also actively discouraged her from lodging an official complaint
23 or talking about her victimization, all in furtherance of the prison's policy of housing biological
24 males in the women's prison.

25 7. Because of Defendants' conduct, Plaintiff suffered extreme and permanent trauma and
26 severe emotional distress, the effects of which she continues to suffer today.
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JURISDICTION AND VENUE

8. This Court has original subject matter jurisdiction over this case pursuant to 28 U.S.C. §§ 1331 and 1343, as Plaintiff alleges that Defendants violated 42 U.S.C. § 1983 by depriving her, under color of state law, of rights, privileges, and immunities secured by the First, Eighth, and Fourteenth Amendments.

9. Venue is proper in this judicial district under 28 U.S.C. § 1391(b), as a substantial part of the events and omissions giving rise to the claims alleged herein occurred and are occurring in this district.

PARTIES

10. Plaintiff, Mozzy Clark, was, at all times relevant herein a prisoner in the Washington Corrections Center for Women (“WCCW”) located in Gig Harbor, Washington. She has since been released from custody.

11. The Defendant, Washington State Department of Corrections, is an agency of the State of Washington, and is subject to the waiver of sovereign immunity reflected in RCW 4.92.090.

12. Defendant, Dennis Simons was, at all times relevant herein, a Lieutenant at WCCW, and a final policymaker, and is also sued as a supervisory defendant.

13. Defendant, Heidi Whittemore was, at all times relevant herein, a Correctional Unit Supervisor (“CUS”) at WCCW, and a final policymaker, and is also sued as a supervisory defendant.

14. Defendant, Carrie Ann Williams a/k/a Carrie Ann Guajardo, was, at all times relevant herein, a Sergeant at WCCW, a Unit Sergeant, and a final policymaker, and is also sued as a supervisory defendant.

15. Defendant, Theresa Ayotte was, at all times relevant herein, a corrections officer at WCCW.

16. Defendant, Gregory Brooks was, at all times relevant herein, a corrections officer at WCCW.

1 17. The term “policymaker/supervisory defendants,” as used herein, includes persons
2 and/or entities who are not alleged to have been physically at the scene of the actual incidents and
3 succeeding events set forth in this complaint. It is also alleged that prior failures to investigate
4 and to discipline the misconduct in this case all make the policymaker/supervisory defendants
5 liable in this case.

6 18. At all times alleged herein, policymaker/supervisory defendants had the power,
7 right, and duty to control the manner in which the individual defendants carried out the objectives
8 of their employment and to assure that all orders, rules, instructions, and regulations promulgated
9 were consistent with the United States Constitution, the laws of the United States, the laws of the
10 State of Washington.

11 19. The unknown named Defendants includes an unknown named officer who
12 acquiesced in the sexual harassment and assault and battery against Ms. Clark, as is described
13 below, as well as who participated in the conspiracy to sexually harass and assault and batter
14 Plaintiff as a form of punishment, and in the deprivation of Plaintiff’s constitutional and human
15 rights, along with unknown named employees of WCCW who were policymakers who created,
16 fostered, acquiesced, ratified and/or maintained the policies, customs and/or practices that caused
17 the deprivation of Plaintiff’s constitutional rights.

18 20. Plaintiff is ignorant of the true names and capacities of those defendants named as
19 Unknown Named Defendants or “Does” or “Roes,” though all are believed to have been
20 employed by WCCW or acting in concert with defendants and in the capacity of state actors, but
21 alleges that each such Defendant was responsible for Plaintiff’s injuries in some intentional or
22 grossly negligent manner. Plaintiff will amend this complaint to allege the true names and
23 capacities of said defendants when they become known.

24 21. Defendants, and each of them, did the acts and omissions alleged herein in bad faith
25 and with knowledge that their conduct violated well and clearly established and settled law.
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1 22. Whenever in this Complaint reference is made to Defendants, such allegations shall
2 be deemed to mean the acts of all Defendants acting individually, jointly, and/or severally.

3 23. The true names and capacities of defendants named herein as DOES 1-10, inclusive,
4 whether individual, corporate, associate, or otherwise, are unknown to Plaintiff, who therefore
5 sues these Defendants by such fictitious names. Plaintiff will amend this Complaint to show true
6 names and capacities of these defendants when they are ascertained.

7 24. At all times mentioned herein, Defendants, and each of them, were the agents,
8 representatives, employees, successors, assigns, parents, subsidiaries, and/or affiliates, each of
9 the other, and at all times pertinent hereto were acting within the course and scope of their
10 authority as such agents, representatives, employees, successors, assigns, parents, subsidiaries,
11 and/or affiliates. Plaintiff also alleges that Defendants were, at all times relevant hereto, the alter
12 egos of each other. Wherever reference is made to Defendants herein, it is intended to include all
13 of the named Defendants as well as the DOE defendants. Each of the fictitiously named DOE
14 Defendants is responsible for the occurrences herein alleged and proximately caused Plaintiff's
15 damages.
16

17 FACTS

18 25. The Incident is the series of events and circumstances that occurred in or about
19 January/February, 2022, before and thereafter, as more fully described in this pleading.

20 26. While a prisoner at WCCW, Ms. Clark was forced to share a cell with a fully intact
21 biological male.

22 27. The Defendants responsible for the decision to place this man in Ms. Clark's cell were
23 Sgt. Williams, Lt. Simons, Defendant Whittemore, and/or DOES 1-5.

24 28. The inmate in question, Christopher Williams, is a convicted sex offender who was
25 incarcerated in the men's prison prior to his transfer to WCCW.

26 29. After assaulting a corrections officer in the men's prison, Mr. Williams claimed to
27 identify as a woman, and was transferred to WCCW as a result.
28

1 30. While at WCCW, and before being moved to Ms. Clark's cell, Mr. Williams was
2 known to the prison staff to have had previous incidents of a sexual nature with his prior female
3 cellmate.

4 31. Immediately after being moved into Ms. Clark's cell, Mr. Williams began to
5 sexually victimize Ms. Clark.

6 32. Mr. Williams would frequently talk to Ms. Clark in a sexually explicit way,
7 describing his proclivities and the graphic sexual things he wanted to do to Ms. Clark. He told
8 Ms. Clark that he wanted to have sex with her and how he sold his body to other female
9 inmates. When Ms. Clark would object, Mr. Williams dismissed her saying that all the other
10 females in the prison "wanted" him.

11 33. At night, Mr. Williams would take out various sex toys kept in his cell, and talk at
12 length about how he wanted to use them on Ms. Clark.

13 34. In their cell, Ms. Clark was on the bottom bunk. Mr. Williams, who is
14 approximately 6'4", would hover menacingly over Ms. Clark's bunk with an erection while
15 touching himself. He would also display his erection to Ms. Clark against her will, and gesture
16 towards it, saying how much he wanted her.

17 35. When Ms. Clark complained to Defendants, including Officer Brooks, about this
18 conduct, they failed to take any serious action. At first, Brooks laughed it off, saying Mr.
19 Williams' going rate for sex with female inmates was a "bag of chips."

20 36. After further complaints, Brooks stated he would inform Sgt. Williams about the
21 conduct. However, Sgt. Williams said she could not do anything for fear of retaliation from
22 inmate Williams.

23 37. Defendants told Ms. Clark that if she complained it would be considered a hate
24 crime and actively discouraged her from filing any complaints. In fact, Brooks told Ms. Clark
25 that Williams had in the past violently retaliated against individuals who complained about
26 him.

1 38. Mr. Williams' predatory behavior continued to escalate. The words and menacing
2 conduct progressed to sexual assault. At night, Williams started fondling Ms. Clark in her
3 sleep. He would put his hand under Ms. Clark's blanket and touch her legs and her breasts.
4 Some mornings, Ms. Clark would wake up with her shirt lifted above her breasts.

5 39. One night, Ms. Clark woke up and saw inmate Williams sitting on the floor next
6 to her bed with his arm under her blanket, rubbing her genitals.

7 40. Defendant Ayotte saw Williams on the floor next to Ms. Clark's bed, knocked on
8 the cell door, and told him to go back to his bunk. However, Ayotte failed to report Williams,
9 and took no other action to stop this inmate from continuing to sexually assault Ms. Clark.

10 41. In or about February, 2022, prison officials confiscated the large bag of sex toys
11 that Williams had in the cell. However, they took no other action against him. When Ms. Clark
12 asked why, she was again told that they did not want inmate Williams to retaliate against her.

13 42. However, this had the opposite effect. Inmate Williams started following Ms.
14 Clark everywhere she went. He would follow her into the bathroom and showers to satisfy his
15 perversions and also to keep her from talking to officers. When Ms. Clark would use the toilet,
16 Mr. Williams would frequently come into the next stall and stand over her, watching. He would
17 do the same when Ms. Clark was in the shower, saying depraved things to her. He also started
18 threatening her with violence if she complained about him again.

19 43. Mr. Williams was known to do this to the other females in the prison as well, to
20 such an extent that he was openly referred to as the "shower shark."

21 44. Prison officers, including supervisory defendants, knew about all the things inmate
22 Williams was doing, but consistently refused to take any action to stop him.

23 45. When Ms. Clark complained to Officer Brooks, he told her that Mr. Williams was
24 known to violently retaliate against women who complained. Officer Brooks also informed
25 Ms. Clark that inmate Williams was incarcerated for sex crimes, and had regularly masturbated
26 in front of female guards when he was housed in the men's prison. That, of course, was before
27 he decided to begin "identifying" as a female.
28

1 46. During this time, Ms. Clark's days were tormented by constant fear and anxiety
2 about being locked in a cage with a much bigger, stronger person – a biologically intact man
3 – who had a known history as a sexual predator. This dread and anguish was exacerbated by
4 the fact that Officer Brooks specifically told her about Mr. Williams' sexual deviance: prison
5 officials specifically knew about his conduct and the dangers he posed, and not only failed to
6 protect Ms. Clark, but actively ignored her pleas for help pursuant to official prison policy.

7 47. At night, Ms. Clark had nightmares about what Mr. Williams would do to her at
8 any given moment. She did not have a single moment of peace, having to always be on alert
9 to the imminent threat of sexual and physical violence.

10 48. The only advice she received from prison officials to separate herself from Mr.
11 Williams was that she could go on suicide watch.

12 49. The prison therapist that Ms. Clark was seeing also stopped her from talking about
13 this trauma and the fact that she was forced to share a cell with a man.

14 50. Finally, despite being actively discouraged from doing so by Defendants, Ms.
15 Clark filed a Prison Rape Elimination Act ("PREA") complaint against Williams.

16 51. Weeks later, Mr. Williams was finally removed from Ms. Clark's cell.

17 52. However, since Defendants did not remove Mr. Williams from the women's
18 prison, he continued to harass and intimidate Ms. Clark by following her around in the yard
19 and staring at her in a menacing manner.

20 53. The injuries suffered by Ms. Clark, *e.g.*, being the victim of the cruel and unusual
21 punishment of sexual violence, that was inflicted upon her maliciously and sadistically without
22 probable cause, were caused in part by the longstanding WCCW policy, practice and custom
23 (with the full knowledge of, acquiescence in, approval of and ratification of Defendants).
24 WCCW had and has a policy of locking female prisoners in cells with biological males known
25 to have a history of violence and sexual predation and actively conspiring to, participating in,
26 acquiescing in, ratifying and approving of these policies, practices, and customs.

54. The injuries suffered by Ms. Clark, *e.g.*, being the victim of the cruel and unusual punishment of sexual violence, that was inflicted upon her maliciously and sadistically without probable cause, were caused in part by the longstanding WCCW policy, practice and custom (with the full knowledge of, acquiescence in, approval of and ratification of Defendants). WCCW had and has a policy of ignoring and downplaying female prisoner complaints about being locked in a cage with biological males, as well as discouraging them from filing official complaints, and actively conspiring to, participating in, acquiescing in, ratifying and approving of these policies, practices, and customs.

FIRST CAUSE OF ACTION

DEPRIVATION OF CONSTITUTIONAL RIGHTS—FIRST/EIGHTH/FOURTEENTH AMENDMENTS – *State-Created Danger* – 42 U.S.C. Section 1983 (Against all Defendants)

55. Plaintiff repeats and realleges each of the foregoing allegations in this Complaint, as if fully set forth herein.

56. At the time of the Incident set forth in the averments above, the rights of persons within the jurisdiction of the United States of America, under both Amendment V and XIV to the United States Constitution to due process of law and the equal protection of the laws, under Amendment I to freedom of speech, and under the Eighth Amendment to be free from cruel and unusual punishment, were in force and effect and the individual Defendants who engaged in conduct, as set forth above, who placed a male sexual predator in Plaintiff's cell and ignored her complaints of sexual harassment and assault, subjected Plaintiff to cruel and unusual punishment and deprived Plaintiff of her constitutional rights, which proximately caused the severe and Permanent injuries to Plaintiff.

57. As a further direct and proximate result of said unconstitutional actions and practices, Plaintiff suffered extreme emotional distress, shame, intimidation, humiliation, indignation, embarrassment, and fear.

58. The aforementioned acts of the Defendants, and each of them, support the award of exemplary and punitive damages in an amount sufficient to punish and make an example of the individual Defendants. Said acts of the individual defendants and each of them were done knowingly, willfully, and maliciously, and with the intent to vex, annoy, harass and oppress Plaintiff, because of her assertion of her constitutional rights and to cause her injury and loss of her rights. By reason thereof, Plaintiff requests that said Defendants each be required to pay damages in an amount sufficient to deter others from these acts.

59. As a result, Plaintiff is entitled to compensatory and punitive damages in amounts to be determined at trial.

SECOND CAUSE OF ACTION

DEPRIVATION OF CONSTITUTIONAL RIGHTS— FIRST/EIGHTH/FOURTEENTH AMENDMENTS – *Deliberate Indifference* – 42 U.S.C. Section 1983 (Against all Defendants)

60. Plaintiff repeats and realleges each of the foregoing allegations in this Complaint, as if fully set forth herein.

61. At the time of the Incident set forth in the averments above, the rights of persons within the jurisdiction of the United States of America, under both Amendment V and XIV to the United States Constitution to due process of law and the equal protection of the laws, under Amendment I to freedom of speech, and under the Eighth Amendment to be free from cruel and unusual punishment, were in force and effect and the individual Defendants who engaged in conduct, as set forth above, who placed a male sexual predator in Plaintiff's cell and ignored her complaints of sexual harassment and assault, subjected Plaintiff to cruel and unusual punishment and deprived Plaintiff of her constitutional rights, which proximately caused the severe and Permanent injuries to Plaintiff.

62. As a further direct and proximate result of said unconstitutional actions and practices, Plaintiff suffered extreme emotional distress, shame, intimidation, humiliation, indignation, embarrassment, and fear.

63. The aforementioned acts of the Defendants, and each of them, support the award of exemplary and punitive damages in an amount sufficient to punish and make an example of the individual Defendants. Said acts of the individual defendants and each of them were done knowingly, willfully, and maliciously, and with the intent to vex, annoy, harass and oppress Plaintiff because of her assertion of her constitutional rights, and to cause her injury and loss of her rights. By reason thereof, Plaintiff requests that said Defendants each be required to pay damages in an amount sufficient to deter others from these acts.

64. As a result, Plaintiff is entitled to compensatory and punitive damages in amounts to be determined at trial.

THIRD CAUSE OF ACTION

DEPRIVATION OF CONSTITUTIONAL RIGHTS—FIRST/EIGHTH/FOURTEENTH AMENDMENTS – *Conspiracy* – 42 U.S.C. Section 1983 (Against all Defendants)

65. Plaintiff repeats and realleges each of the foregoing allegations in this Complaint, as if fully set forth herein.

66. At the time of the Incident set forth in the averments above, the rights of persons within the jurisdiction of the United States of America, under both Amendment V and XIV to the United States Constitution to due process of law and the equal protection of the laws, under Amendment I to freedom of speech, and under the Eighth Amendment to be free from cruel and unusual punishment, were in force and effect and the individual Defendants who engaged in conduct, as set forth above, who placed a male sexual predator in Plaintiff's cell and ignored her complaints of sexual harassment and assault, subjected Plaintiff to cruel and unusual punishment and deprived Plaintiff of her constitutional rights, which proximately caused the severe and Permanent injuries to Plaintiff.

67. Defendants conspired together to deprive Plaintiff of her civil rights in violation of 42 U.S.C. § 1983. The conspiracy included those who created the policy of placing biological males in the same cell as female prisoners, who ignored female prisoner complaints, and who looked the

1 other way when female prisoners were harassed and assaulted by male prisoners at WCCW, as
2 described herein.

3 68. The conspirators engaged in overt acts in furtherance of the conspiracy, including, but
4 not limited to, ignoring female prisoner complaints about male prisoners at WCCW, and actively
5 discouraging female prisoners from filing complaints.

6 69. As a further direct and proximate result of said unconstitutional actions and practices,
7 Plaintiff suffered extreme emotional distress, shame, intimidation, humiliation, indignation,
8 embarrassment, and fear.

9 70. The aforementioned acts of the Defendants, and each of them, support the award of
10 exemplary and punitive damages in an amount sufficient to punish and make an example of the
11 individual Defendants. Said acts of the individual Defendants and each of them were done
12 knowingly, willfully, and maliciously, and with the intent to vex, annoy, harass and oppress
13 Plaintiff because of her assertion of her constitutional rights, and to cause her injury and loss of
14 her rights. By reason thereof, Plaintiff requests that said Defendants each be required to pay
15 damages in an amount sufficient to deter others from these acts.

16 71. As a result, Plaintiff is entitled to compensatory and punitive damages in amounts to
17 be determined at trial.

18 **FOURTH CAUSE OF ACTION**

19 **DEPRIVATION OF CONSTITUTIONAL RIGHTS—FOURTEENTH AMENDMENT –** 20 ***Right to Bodily Privacy – 42 U.S.C. Section 1983*** 21 **(Against all Defendants)**

22 72. Plaintiff repeats and realleges each of the foregoing allegations in this Complaint, as
23 if fully set forth herein.

24 73. At the time of the Incident set forth in the averments above, the rights of persons
25 within the jurisdiction of the United States of America, under both Amendment V and XIV to the
26 United States Constitution to due process of law and the equal protection of the laws, were in
27 force and effect and the individual Defendants who engaged in conduct, as set forth above, who
28

1 placed a male sexual predator in a women's prison, deprived Plaintiff of her constitutional rights,
2 which proximately caused the severe and Permanent injuries to Plaintiff.

3 74. There is a sex-based constitutional right to bodily privacy because most people have
4 a special sense of privacy in their genitals, buttocks, and breasts and involuntary exposure of them
5 in the presence of people of the other sex may be especially demeaning and humiliating.

6 75. Defendants had a purposeful policy that discriminated against women by allowing
7 men who identified as transgender to access women's cells, shower rooms, and restrooms.

8 76. Defendants engaged in conduct, as set forth above, that allowed inmate Williams to
9 follow women, including Plaintiff, into the showers and restrooms and to leer at their exposed
10 and naked bodies without any legitimate purpose.

11 77. As a further direct and proximate result of said unconstitutional actions and practices,
12 Plaintiff suffered extreme emotional distress, shame, intimidation, humiliation, indignation,
13 embarrassment, and fear.

14 78. The aforementioned acts of the Defendants, and each of them, support the award of
15 exemplary and punitive damages in an amount sufficient to punish and make an example of the
16 individual Defendants. Said acts of the individual Defendants and each of them were done
17 knowingly, willfully, and maliciously, and with the intent to vex, annoy, harass and oppress
18 Plaintiff because of her assertion of her constitutional rights, and to cause her injury and loss of
19 her rights. By reason thereof, Plaintiff requests that said Defendants each be required to pay
20 damages in an amount sufficient to deter others from these acts.

21 79. As a result, Plaintiff is entitled to compensatory and punitive damages in amounts to
22 be determined at trial.

23
24 **DEMAND FOR JURY TRIAL**

25 Plaintiff hereby demands a trial by jury on all claims so triable as of right.


26 **PRAYER FOR RELIEF**

27 WHEREFORE, Plaintiffs pray for relief and judgment as follows:
28


- 1 A. General and compensatory damages for Plaintiff for the violations of her state and
2 federal constitutional and statutory rights, emotional distress, humiliation, and
3 anguish, all according to proof;
4 B. Nominal damages, according to proof;
5 C. Punitive damages, according to proof;
6 D. Attorneys' fees, costs, interest, and expenses pursuant to 42 U.S.C. §1988, and any
7 other applicable source of law.
8 E. And such other and further relief as the Court may deem proper.

9 Respectfully submitted this 20th day of February, 2025.

10
11 **ROBERT A. BOUVATTE, PLLC**

12
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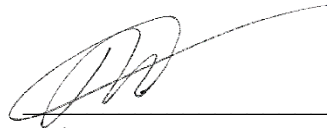
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CERTIFICATE OF SERVICE

I hereby certify that on February 20, 2025, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel/parties of record. All other parties required to receive notice will be served via other means.

Dated: February 20, 2025.

By:



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